

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Peter MELCHIOR

Application No.: 09/981,626

Filed: October 16, 2001

For: PURCHASE ORDER
AMENDMENT AND NEGOTIATION
IN A FULL SERVICE TRADE SYSTEM

Customer No.: 20350

Confirmation No. 7032

Examiner: Paul R. Fisher

Technology Center/Art Unit: 3689

PETITION TO SUSPEND ACTION BY
THE OFFICE UNDER 37 C.F.R. §1.103

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

Further to Applicant's response to the Office Action mailed May 11, 2009, submitted September 11, 2009, and pursuant to 37 C.F.R. § 1.103(a), Applicant requests that the U.S. Patent and Trademark Office suspend action on this application for six months. Applicant believes that there is good and sufficient cause to suspend the action as set forth below.

Applicant requests a suspension of action for six (6) months in order to allow for the Supreme Court of the United States to render a decision in *Bilski v. Kappos*, No. 08-964 (U.S. cert. granted, June 1, 2009). All of the claims of the present application have been rejected under 35 U.S.C. §101 based on the new standard regarding patentable subject matter recently announced by the U.S. Court of Appeals for the Federal Circuit. *In re Bilski*, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008). Of note, the decision of the Federal Circuit in *Bilski* overturned previous precedent, and relevant standards, regarding the scope and applicability of 35 U.S.C. §101, such as the "useful, concrete and tangible result" standard, among others.

The decision of the Federal Circuit, and the relevant standard for patentable subject matter under 35 U.S.C. §101, as applied in the present application, are under review by the Supreme Court, as indicated above. It is believed that the outcome of the *Bilski* case will have significant bearing on the patentability of the pending claims, and/or potential amendments or arguments that may be appropriate. By suspending prosecution of this application, it is believed that significant expense to Applicant, and unnecessary work on the part of the Patent Office, may be avoided by making such potential actions as a Continuation Application, Request for Continued Examination, or Reexamination unnecessary. Therefore, Applicant submits that it is appropriate to suspend prosecution of the application for a reasonable time, in anticipation of the decision by the Supreme Court.

Oral argument before the Supreme Court in *Bilski* is scheduled for Nov. 9, 2009. It is believed that the Court will render its decision within the six months Applicant is hereby requesting. In view of the response filed September 11, 2009, the present application is not currently subject to an action.

In view of the above, the Applicants respectfully request that this Petition to Suspend Action be granted.

Please charge the petition fee as set forth in 37 C.F.R. § 1.17(g) in the amount of \$200.00 to the undersigned's Deposit Account No. 20-1430. Please charge any additional fees or credit overpayment to the above deposit account. If any questions arise regarding this submission, please telephone the undersigned at 202-481-9900.

Respectfully submitted,

/James E. Golladay/
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